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10/716,474	11/20/2003	Takahiro Kikuchi	KAS-195	6873

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EXAMINER

RIVIERE, HEIDI M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/716,474	Applicant(s) KIKUCHI ET AL.	
	Examiner HEIDI RIVIERE	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-9 and 14-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9 and 14-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-3, 5-9, and 14-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-9 and 14-20** are rejected under 35 U.S.C. 102(e) as being anticipated by **Motegi et al. (US 2002/0076352 A1)** (hereinafter "**Motegi**").
4. The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.
5. **With respect to claims 1 and 14:** (Currently Amended) Motegi teaches:

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- a maintenance computer collecting and storing reagent cross-contamination information; (Motegi: paragraphs 32-35 – microcomputer)
- [[a]]an automatic analyzer connected to said maintenance computer through a communication line, said automatic analyzer including; (Motegi: paragraphs 32-35 – automatic chemical analyzer)
 - a. a memory storing reagent cross-contamination information transmitted from said maintenance computer; (Motegi: paragraphs 15-17, 32-35 and 42-48 – automatic chemical analyzer; analyzer memorizes results)
 - b. and an analyzer operating unit that receives instruction for changing an operation sequence of said automatic analyzer to prevent the occurrence of the cross-contamination on the basis of said reagent cross-contamination information stored in said memory; and carries out the operation sequence to prevent the occurrence of the cross-contamination in accordance with the received instruction. (Motegi: paragraphs 15-17, 32-35 and 42-48 – automatic chemical analyzer; analyzer memorizes results)

6. **With respect to claims 2 and 15:** (Currently Amended) Motegi teaches wherein said maintenance computer is configured to carry out a validation test based on the collected cross-contamination information to validate whether the information is true or false, and to send only the information, which has been validated as being true, to a plurality of other automatic analyzers each connected to said maintenance computer

through a communication line. (Motegi: Figs. 2 and 3 – contaminating test for and system responds with “yes” or “no”).

7. **With respect to claim 3:** (Previously Presented) Motegi teaches wherein said maintenance computer is configured to collect the cross-contamination information and to carry out a validation test on the collected information, and to manage the information, which has been collected and subjected to the validation test, and to send the information to said plurality of other automatic analyzers. (Motegi: Figs. 2 and 3 – data collected and contaminating test for and system responds with “yes” or “no”)

8. **With respect to claim 4:** (Canceled)

9. **With respect to claims 5 and 16:** (Previously Presented) Motegi teaches wherein the cross contamination information contains at least one of information for identifying an offensive reagent, information for identifying a defensive reagent, information regarding a level of influence of the cross-contamination, information regarding a contamination place, information regarding a detergent type, and information regarding a detergent volume. (Motegi: Figs. 6 and 7 –“registration of items of analysis for detection of contamination”; sample name and detergent name and information)

10. **With respect to claims 6 and 17:** (Currently Amended) Motegi teaches wherein each of said plurality of other automatic analyzers is configured to automatically take in the cross-contamination information and change an operation sequence of said analyzer as required (Motegi: paragraphs 15-17, 32-35 and 42-48 – automatic chemical analyzer; analyzer memorizes results).

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11. **With respect to claims 7 and 18:** (Previously Presented) Motegi teaches wherein each of said other automatic analyzers is configured to display the cross-contamination information having been automatically taken in, to ask an operator of said analyzer whether or not the operation sequence of said analyzer is to be changed, to register a result of confirmation made by the operator, and to change the operation sequence of said analyzer in accordance with the registration result. (Motegi: Figs. 2, 3, 6 and 7 –“registration of items of analysis for detection of contamination”; sample name and detergent name and information; questions asked regarding presence of contaminations and result of judgment noted).

12. **With respect to claims 8 and 19:** (Previously Presented) Motegi teaches wherein each of said other automatic analyzers is configured to validate its own ability of suppressing cross-contamination, and to determine whether or not the operation sequence of each of said other analyzers is to be changed, based on a combination of the validated ability of suppressing cross- contamination and the cross-contamination information having been automatically taken in. (Motegi: Figs. 2, 3, 6 and 7 – “registration of items of analysis for detection of contamination”; sample name and detergent name and information; questions asked regarding presence of contaminations and result of judgment noted)

13. **With respect to claims 9 and 20:** (Currently Amended) Motegi teaches further including a processing system for enabling said maintenance computer to receive predetermined charges in exchange for offering said cross-contamination information. (Motegi: paragraphs 32-35 – central processor).

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14. **With respect to claim 10-13:** (Canceled)

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

17. **Claims 21, 23 and 24** are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over **Manabe et al. (US 4,971,913)** (hereinafter "**Manabe**").

18. **With respect to claim 21:** (New) Manabe teaches reading a reagent barcode label of each of a plurality of reagent bottles for identification of the reagents by the automatic analyzer, registering the reagents, and confirming washing ability of the

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automatic analyzer by testing. (Manabe: Fig. 2; cols. 4-6 – reagents identified by analyzer and washing unit used to test items; input unit)

19. **With respect to claim 23:** (New) Manabe teaches receiving, by an automatic analyzer, reagent cross-contamination information from a maintenance computer; storing the reagent cross-contamination information in a memory; and changing an operation sequence of the automatic analyzer to prevent the occurrence of the cross-contamination on the basis of the reagent cross- contamination information stored in the memory. (Manabe: Fig. 2; cols. 4-6 – reagents identified by analyzer and washing unit used to test items; input unit)

20. **With respect to claim 24:** (New) Manabe teaches reading a reagent barcode label of each of a plurality of reagent bottles for identification of the reagents by the automatic analyzer, registering the reagents, and confirming washing ability of the automatic analyzer by testing. (Manabe: Fig. 2; cols. 4-6 – reagents identified by analyzer and washing unit used to test items; input unit)

21. **Claims 22 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Manabe** in view of **Motegi**.

22. **With respect to claims 22 and 25:** (New) Manabe teaches comparing a reagent manufacturer name and test information contained in the reagent barcode label with information of combinations causing cross-contamination stored as reagent cross-contamination information in the memory to check for presence or absence of a

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combination causing cross-contamination; (Manabe: cols. 4-6 – reagents identified by analyzer and washing unit used to test items)

- Manabe does not teach, however Motegi teaches if there is presence of a combination causing cross-contamination, issuing an alarm indicating the presence, evaluating the washing ability of the automatic analyzer and displaying the combination causing cross- contamination for which washing is recommended, and prompting an operator to select whether to carry out registration of cross-contamination prevention or not; and if the operator selects to carryout registration of cross-contamination prevention, registering cross-contamination prevention information. (Motegi: Figs. 2, 3, 6 and 7 –“registration of items of analysis for detection of contamination”; sample name and detergent name and information; alarm sounded)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Manabe and Motegi. Manabe teaches a method for controlling reagent delivery system in automatic chemical analyzer. The system investigates the occurrence of contamination. The Motegi reference also teaches an automatic chemical analyzer that investigates contamination.

CONCLUSION

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heidi Riviere whose telephone number is 571-270-1831. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. R./
Examiner, Art Unit 3689

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689
4/22/09